

Tax Transparency and Exchange of Information: Impact on Hong Kong

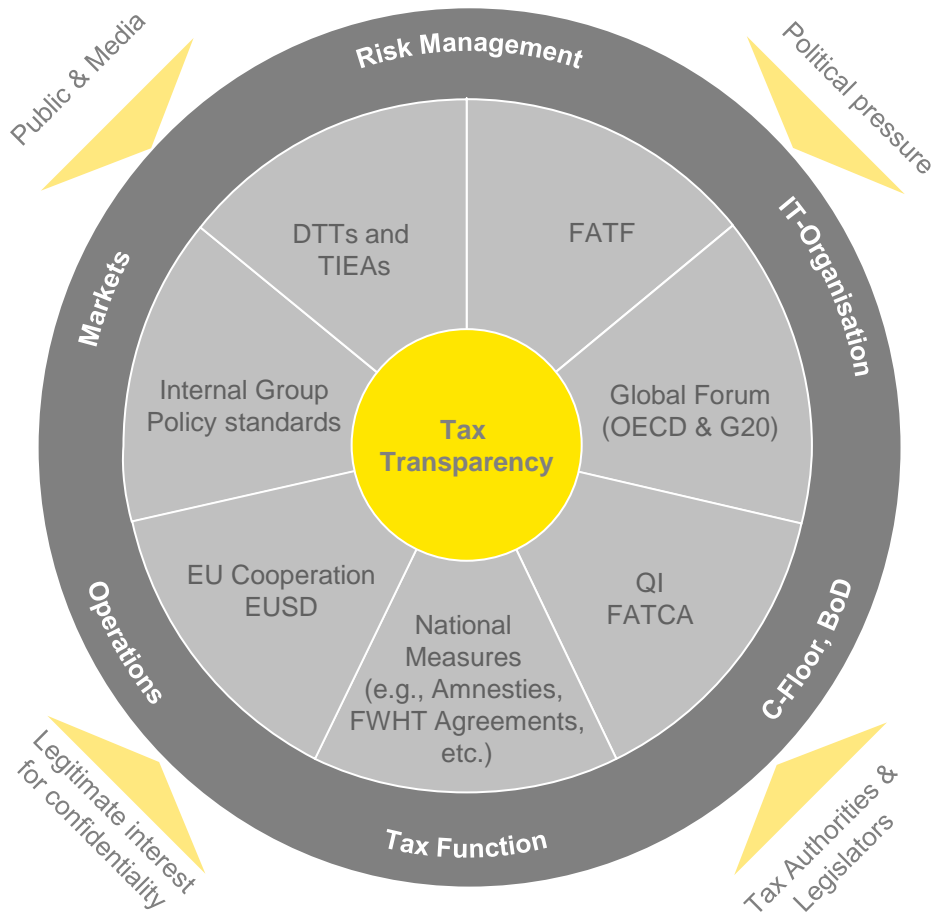
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Tax Transparency



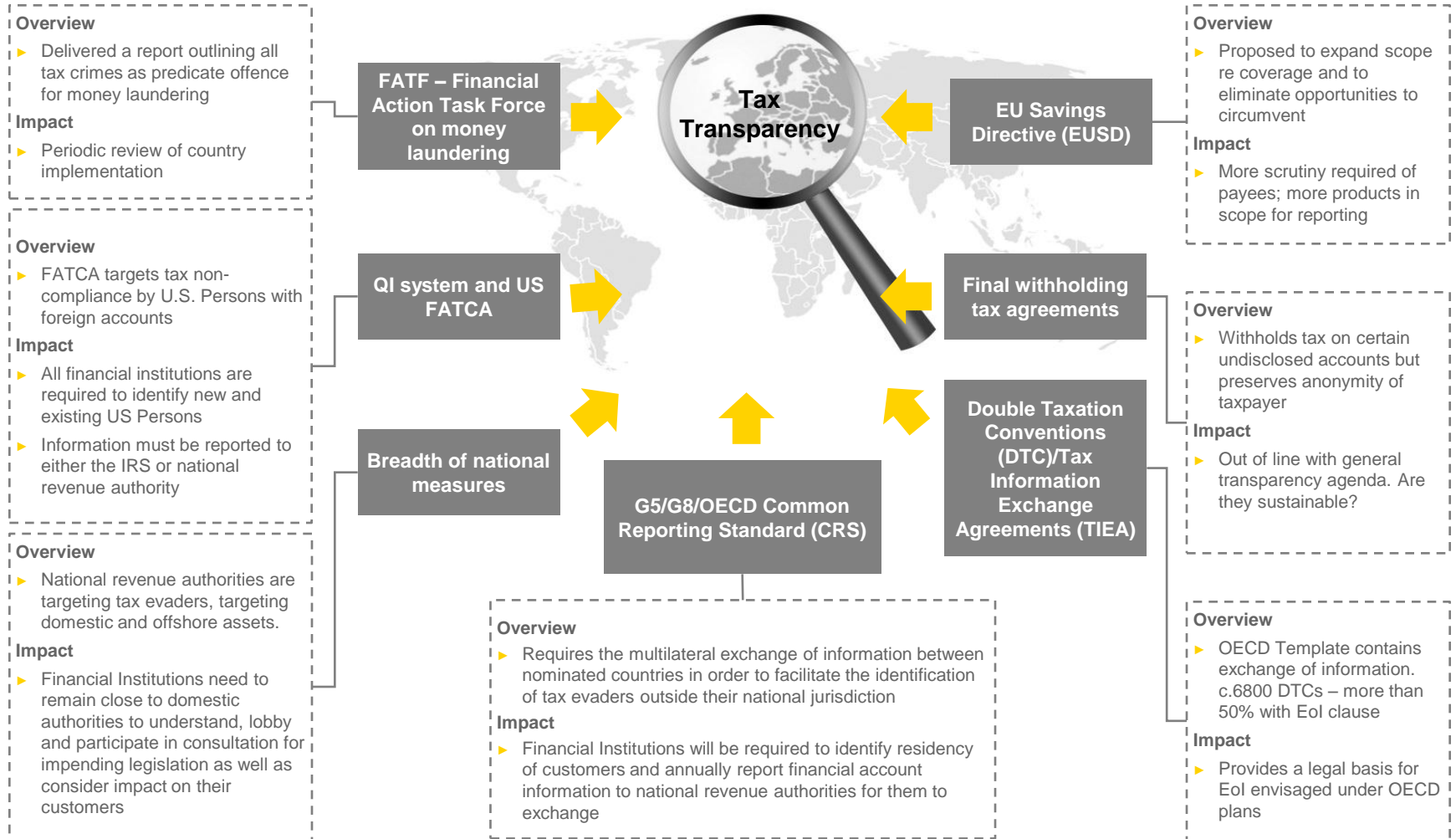
The fiscal landscape is changing rapidly. Many countries have tightened their tax rules and ever more rigorously enforce tax collection in order to finance their spending; simultaneously supranational efforts aim at bringing about greater and more harmonized tax transparency:

- ▶ **Client taxation**
New rules subject financial institutions to enhanced cooperation with tax authorities. Moreover, governments prosecute tax evasion and tax fraud and aiding and abetting therein more thoroughly
- ▶ **Taxation of financial institutions and their employees**
The tax authorities increasingly focus on capturing taxable presences of the financial institution and their employees. Also there is an increased focus on what the 'fair share' of tax should be (OECD Report on Base Erosion and Profit Shifting/Transfer Pricing)
- ▶ **Enhancement of the transparency by several countries and supranational organisations**
OECD initiatives & Automatic exchange of information
Domestic initiatives such as FATCA, QI, tax amnesties or Rubik Agreements, etc.

Knowing the rules and practice, keeping track of developments, and achieving compliance in all jurisdictions is a major challenge for financial service groups

Global Tax Transparency

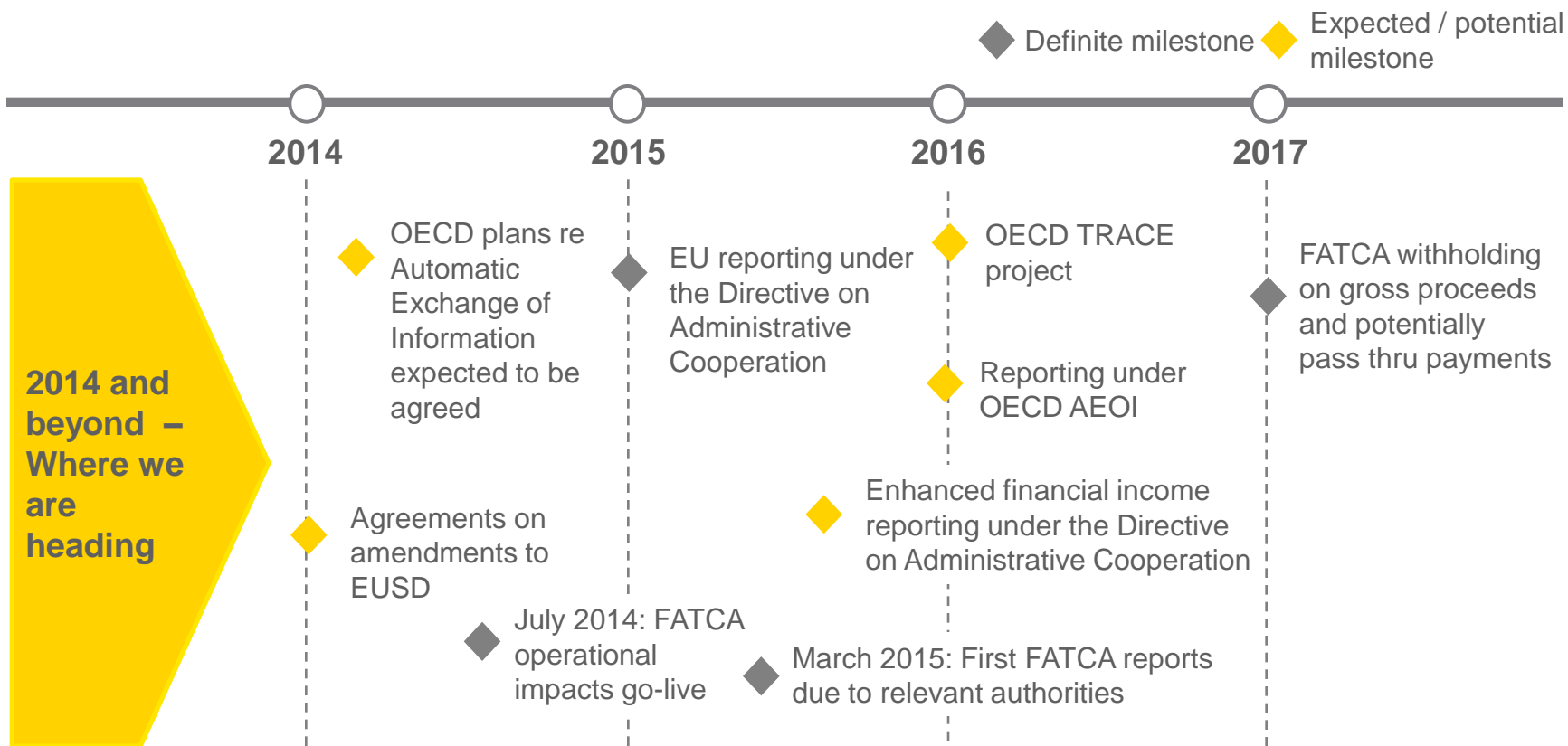
The regulatory landscape



Expected future timeline

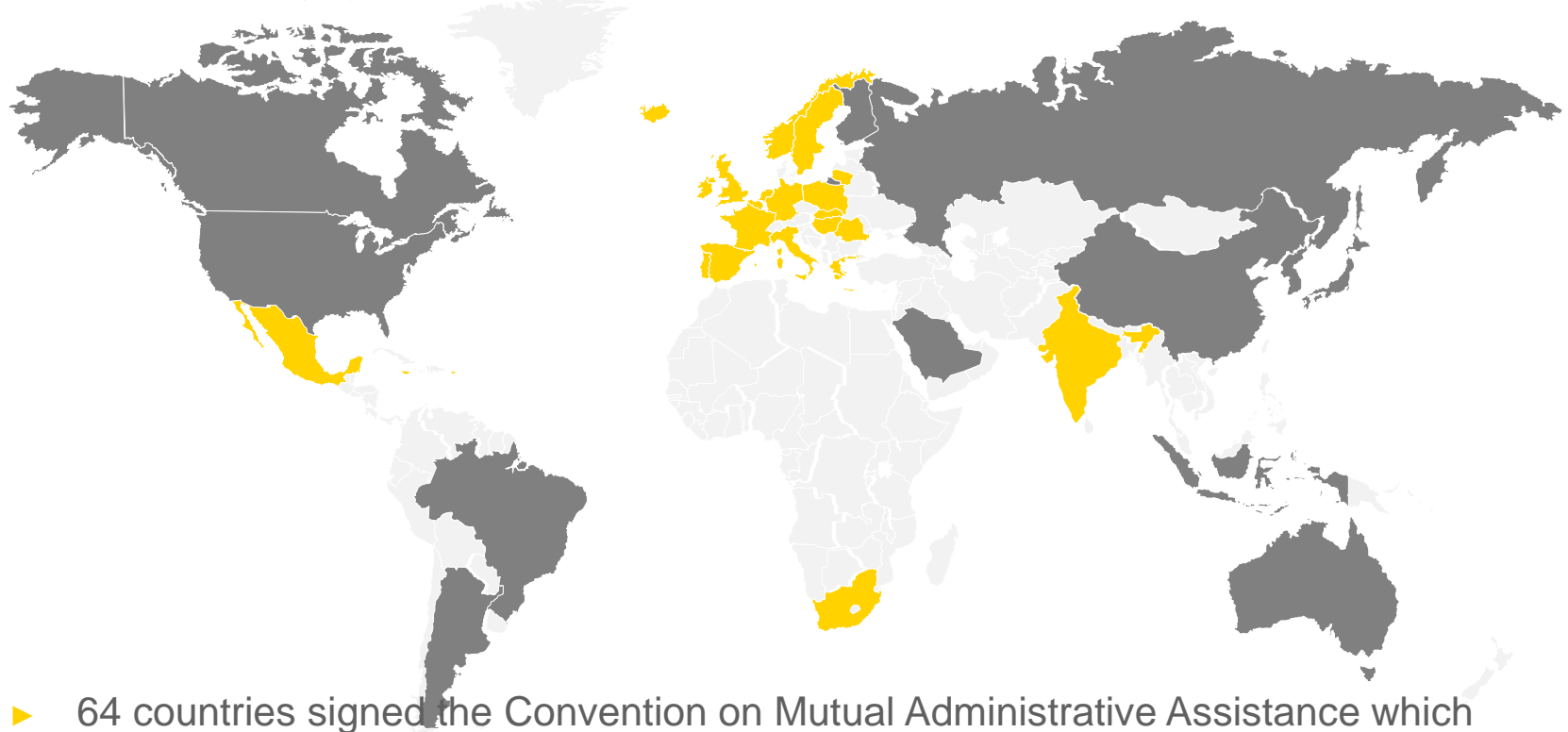
Increased tax transparency

The upcoming regulatory landscape is focused on tax transparency and ensuring that adequate information is shared between jurisdictions to ensure detection of tax evasion



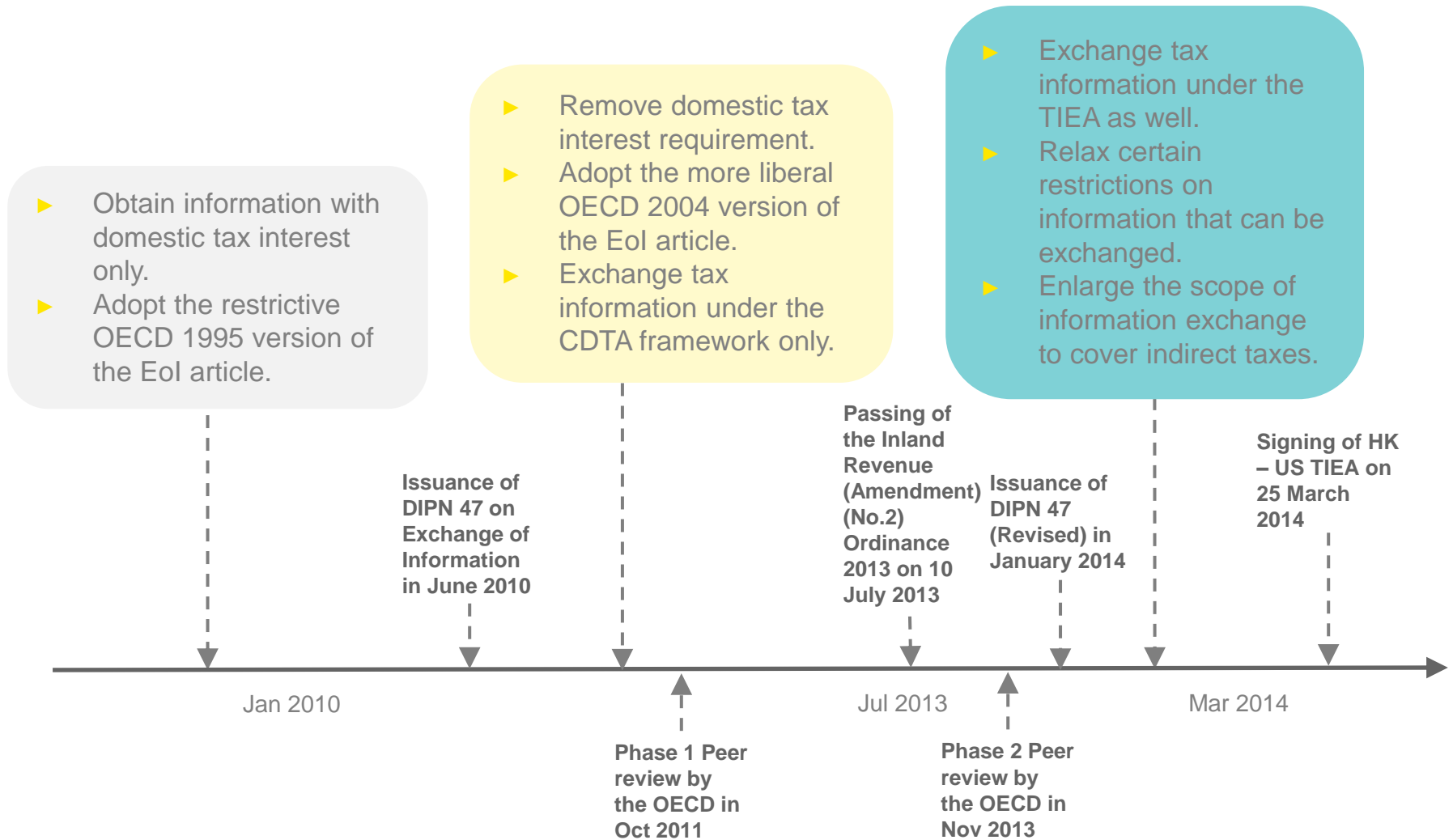
CRS released with strong political support

- ▶ G20 endorsed CRS (**dark grey**)
- ▶ 40 countries signed the Joint statement for early adoption of Global Tax Transparency (**yellow**) with the view to first report in 2016



- ▶ 64 countries signed the Convention on Mutual Administrative Assistance which includes a possible Global Tax Transparency, of which the following countries in Asia Pacific: Australia, China, Indonesia, Korea, New Zealand and Singapore

Recent developments of tax information exchange regime in Hong Kong



What are the changes?

Pre-2013 regime	
Eol mechanism	Under Eol article of CDTAs only
Scope of taxes covered	Direct taxes
Scope of information that can be exchanged	Restricted to information that relates to a period after the CDTA comes into operation.
Information that need to be furnished	Restricted to information in the possession of a taxpayer.



Post-2013 regime	
Under Eol article of CDTAs and TIEAs	
Direct taxes and other taxes (e.g., indirect taxes)	
Information that are relevant for the carrying out of the CDTA / TIEA, including information prior to the effective date of the CDTA / TIEA	
Information in the possession of a taxpayer or in the control of a taxpayer.	

Existing Eol framework in Hong Kong

Allowed under the existing framework	Not allowed under the existing framework
<ul style="list-style-type: none">▶ Exchange of information upon disclosure request▶ Exchange of information relating to any tax imposed by the laws of Hong Kong or the CDTA/ TIEA partner jurisdiction (positive listing approach for each CDTA/ TIEA)	<ul style="list-style-type: none">▶ Disclosure of information upon speculative requests (“fishing expeditions”)▶ Automatic or spontaneous exchange of information▶ Use of information exchanged for non-tax related purposes (excepted for combating serious crimes listed in the CDTA/ TIEA e.g. money laundering, terrorism financing)▶ Disclosure to oversight bodies of tax authorities▶ Disclosure to third jurisdiction▶ Disclosure of legal professional privileged information▶ Tax examination abroad

Future Development

- ▶ Convention on Mutual Administrative Assistance in Tax Matter, which is a worldwide / multilaterally agreed framework for:
 - ▶ Exchange of information on request
 - ▶ Automatic exchange of information
 - ▶ Spontaneous exchange of information
 - ▶ Simultaneous tax examinations
 - ▶ Tax examinations abroad
 - ▶ Assistance in tax collection and recovery

- ▶ Use of the tax information exchanged for non-tax related purposes (2012 version of EoI article of the OECD Model Tax Convention)

Thank you!

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